

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

<u>UNITED STATES OF AMERICA</u>)	Criminal No. 05-40006- FDS
)	
)	
V.)	
)	
)	
<u>HERIBERT RODRIGUEZ</u>)	

ASSENTED TO MOTION TO ORDER A PRE-PLEA PRE-SENTENCE REPORT

Now comes the defendant and moves this Honorable Court to order the United States Department of Probation to conduct a pre-plea pre-sentence report in this matter.

In support of this motion the defendant states that he is charged with being a felon in possession of a firearm pursuant to 18 U.S.C. Sec 922 (g)(1). The United States Attorney, Paul Casey and defense counsel have entered into plea negotiations in this matter. Upon review of the defendant's record , especially in light of Shepard v. United States, 125 S. Ct. 1254 (2005), both counsel are uncertain whether the defendant's criminal record qualifies him as an Armed Career Criminal. If so, this would have a substantial effect on the ultimate sentence the defendant is facing. In light of this ambiguity and in the interests of justice, the defendant, with the assent Assistant United States Attorney, Paul Casey, respectfully requests that this Honorable Court grant the defendant's motion and order probation to conduct a pre-plea pre-sentence report.

The defendant,
HERIBERTO RODRIGUEZ
By his attorney,

‘/s/Walter H. Underhill, Esquire’
Walter H. Underhill, Esq.
66 Long Wharf
Boston, MA
02110
4th. Floor
Tel. # 617-523-5858
B.B.O. # 506300

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